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B. Mark Hausman
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SDMS Document



93290



June 4, 2004

VIA AIRBORNE

Ms. Elizabeth Butler
Remedial Project Manager
Emergency and Remedial Response Division
U. S. Environmental Protection Agency
290 Broadway – 19th Floor
New York, New York 10007-1866

**RE: LOWER PASSAIC RIVER STUDY AREA
SUPPLEMENTAL REQUEST FOR INFORMATION**

Dear Ms. Butler:

This response is timely submitted on behalf of Texaco Inc. ("Texaco"), within the ten (10) calendar day deadline imposed in your Supplemental Request for Information, dated May 21, 2004 and received by me on May 28, 2004. Texaco considers the very short amount of time given by EPA to respond to the Supplemental RFI as *not being reasonable notice*, which is clearly a requirement under section 104(e) of CERCLA. As before, the answers contained herein represent Texaco's good faith efforts to satisfy your demand for information within a very short period of time.

Before responding to each particular question in turn, Texaco objects generally to the Request as being beyond USEPA's authority to the extent that it seeks information not specified as subject to production under CERCLA. Specifically, CERCLA Section 104(e) only authorized access to information relevant to the *identification, nature and quantity of materials* which have been or are generated, treated, stored or disposed of at or transported to a facility; *the nature of extent of a release* or threatened release of a hazardous substance at or from the facility; or information relating to the Respondent's *ability to pay or perform a cleanup*. See 42 U.S.C. § 9604(e)(2)(A)-(C).

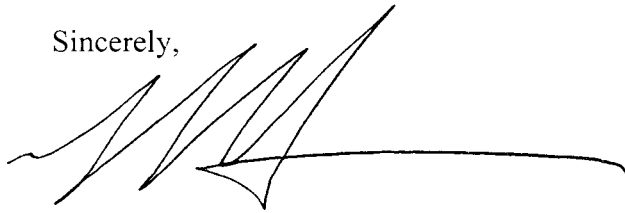
Notwithstanding this objection and without waiving the right to raise and litigate any issues at a later date, Texaco hereby provides its response to the questions set forth in the

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Supplemental Request in the form of Exhibit A (attached hereto). Nothing contained herein or Exhibit A is intended to or should be construed as a waiver of any of Texaco's rights, entitlements or defenses. Further, nothing herein or Exhibit A is intended to be an admission against Texaco's interest as to any fact, liability, responsibility or issue of law.

You may contact me at the above-listed telephone number should you desire to further discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'B. Mark Hausman', with a long horizontal line extending to the right.

B. Mark Hausman

BMH:lew

cc: Mr. Mark Stella
Kedari Reddy, Esquire

ATTACHMENT B

SUPPLEMENTAL REQUEST FOR INFORMATION

Response to Question 1:

The following PAHs are typically found in fuel products such as heating oil, diesel fuel and motor oil that were stored at the Getty Newark Terminal:

Acenaphthene, Anthracene, Benzo(a)anthracene, Benzo(a)pyrene, Benzo(b)fluoranthene, Benzo(g,h,i)perylene, Benzo(k)fluoranthene, Chrysene, Dibenz(a,h)anthracene, Fluoranthene, Fluorene, Indeno(1,2,3-c,d)pyrene, Naphthalene, Phenanthrene, and Pyrene.

Response to Question 2:

To the best of Texaco's knowledge, surface runoff from the West Yard was collected by catch basins that were connected to the municipal wastewater collection system. Area A is a two acre undeveloped portion of the Getty Newark Terminal. A topographically low area exists at the westernmost portion of Area A, which is adjacent to the New Jersey Turnpike. This low area may receive surface runoff from other portions of Area A and the New Jersey Turnpike property. Texaco assumes that this low area is the "drainage swale" referenced in Question 2 of the Supplemental Request. To the best of its knowledge, Texaco had no need to, was not required to, and has not investigated a potential discharge pathway from this low area. Therefore, Texaco cannot give particulars on a potential discharge pathway for this area.

Response to Question 3 and 3a:

The listed discharges appearing in the referenced Table 3 occurred subsequent to the time that Texaco sold the property to Power Test on or about February 1, 1985. Texaco was not in control of or responsible for the Terminal at the time of the occurrence of the discharges. Texaco learned of these discharges primarily via an environmental data base review performed during 1998. During 1999, Texaco provided this information to the NJDEP in support of its position that Texaco should not be held responsible under the ISRA Case to address impacts to soil and ground water from discharges occurring after Texaco sold the property. There is another discharge which is not on the list in Table 3 that allegedly occurred in 1987 and was referenced in the October 1989 Cleanup Plan generated by IT Corp. for ISRA Case # 84455. Therefore, Texaco does not have any documents, specific information, or sampling results for assessment and cleanup of these incidents and suggests that USEPA contact Power Test and/or NJDEP regarding such matters.

Further, Texaco is not aware of any releases that occurred between the time Texaco acquired Getty Oil Company on or about December 1984 and the time Texaco sold the facility on or about February 1, 1985. To the best of Texaco's knowledge, it is only aware of two releases that occurred prior to when Texaco acquired Getty in December 1984. The releases were reported in Section 3.3 of the October 1989 Cleanup Plan for ISRA Case # 84455. The first release was reported to have occurred in the West Yard during the early 1960's when an unspecified release of gasoline occurred from a ruptured pipeline. The pipeline and stained soil were reported to have been removed. The second release was reported to have occurred during October 8, 1981 when approximately 1,200 gallons of gasoline were released from an aboveground tank located in the East Yard. It was reported that the US Coast Guard, USEPA, and NJDEP were notified and a private contractor was hired to cleanup the release. To the best of its knowledge, Texaco does not possess any additional documentation related to these releases. However, the locations of the releases were later investigated during Texaco's environmental assessment activities under ISRA Case 84455. The results of the assessment appear in the above-referenced Cleanup Plan.

Response to Question 4:

Texaco is submitting the following documents concurrently with its response:

Copies	Date	Title
1	Oct. 1989	Cleanup Plan, Newark Terminal, ECRA Case #84455, IT Corp.
1	Oct. 1994	Quarterly Progress Report, PP BN Scans From Tank Basin Remediation
1	April 1991	Paved Area Remedial Investigation Report, Newark Terminal
1	Jan. 1991	Tank Basin Remediation Report, Newark Terminal, ECRA Case # E88445
1	July 25, 1997	Remedial Action Report for PCB Soils in Area A, Volume I Report, Getty
1	May 12, 1998	Remedial Action Assessment Report, Getty Newark Terminal
1	Sept. 10, 1999	Summary of Ground Water Sample Data From Dec. 1984 to June 1999
1	March 21, 2002	Ground Water Monitoring Results Report, Getty Newark Terminal
1	Oct. 7, 2003	Remedial Investigation Workplan For Area A

Texaco's consultant, Quest Environmental, will be providing USEPA with additional responsive documents under separate cover. Additionally, Texaco has three banker's boxes of documents and reports related to environmental activities at the Terminal that it will make available for review and copying by USEPA in Atlanta, Georgia at a mutually convenient time. Per Mark Hausman's telephone discussion with USEPA Assistant Regional Counsel, Kedari Reddy, on June 4, 2004, Texaco will provide an index of these additional documents to USEPA by June 11, 2004.

Response to Question 5:

To the best of Texaco's knowledge, it has no corporate relationship with Power Test Realty Company or Power Test of New Jersey, Inc.

Response to Question 6:

Although it is believed in good faith that the information contained within this response is true, accurate and complete based upon inquiry of individuals providing information forming the basis for the answers, Texaco respectfully declines to provide the "Certification of Answers to Request for Information." Texaco could not identify any legal basis or authority within 104(e) that mandates an RFI recipient to provide such a certification, nor could Asst. Regional Counsel Reddy cite to such authority in response to a telephone inquiry. Thus, the request made by USEPA in Question 6 is beyond the scope of authority granted USEPA in section 104(e) of CERCLA. However, if USEPA does provide Texaco with a valid citation or legal basis for its request, Texaco will submit an appropriate certification.